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HARRIS, SKRIVAN & ASSOCIATES LLC

TELECOMMUNICATIONS CONSULTANTS

CORPORATE OFFICE: 8801 SOUTH YALE, SUITE 450
TULSA, OKLAHOMA 74137
VOICE: 918-496-1444
FAX: 918-496-7733
E-MAIL: hsa@iamerica.net

COLORADO OFFICE: 2110 VICKERS DRIVE, SUITE 2106
COLORADO SPRINGS, CO 80918
VOICE: 719-531-6342
FAX: 719-531-0788
E-MAIL: robhsa@worldnet.att.net

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation	)))	CC Docket No. 98-77

Reply Comments of Harris, Skrivan & Associates, LLC to the Notice of Proposed Rulemaking on Access Reform for Carriers Subject to Rate-of-Return Regulation.

Harris, Skrivan & Associates, LLC (HSA) provides financial and regulatory consulting services to Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation throughout the United States. These comments are supported by the following incumbent local exchange carriers: Bijou Telephone Cooperative Assn., Inc., Bixby Telephone Company, Carnegie Telephone Company, Cimarron Telephone Company, Cross Telephone Company, Dobson Telephone Company, Home Telephone Company, Illinois Consolidated Telephone Company, McLoud Telephone Company, Pottawatomie Telephone Company, Silver Star Telephone Company, Smithville Telephone Company, Steelville Telephone Exchange, Teton Communications, Wamego Telephone Company, and Wilson Telephone Company.

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REPLY COMMENTS OF HARRIS, SKRIVAN & ASSOCIATES

Rate of Return Carriers are not like Price Cap Companies. As data filed in this proceeding by USTA and JSI demonstrates, the cost characteristics of rate-of-return carriers are very different than the cost characteristics of price cap carriers.[1] JSI estimates that in the year 2008, the combined SLC and PICCs for price cap carrier multi-line business would be \$7.14, but would be \$23.41 for rate-of-return carriers.[2] The Strategic Policy Research Group notes that "USTA more recently has estimated that, under the FCC proposal, the SLC for multi-line business would immediately go to the \$9.00 cap for a number of rate-of-return ILECs without fully recovering the common line costs for those companies, and the CCL for those companies would not be eliminated by 2001. This contrasts sharply with the FCC's expected elimination of the CCL for many price cap ILECs by 1999."[3]

For rate-of-return carriers, loops are longer, serving less populated subscriber areas, switches are smaller, yet require the same software and sophistication as do switches of the large price cap carriers, and the subscriber base of rate-of-return carriers is less diverse than that of the price cap carriers. Therefore, while it may be theoretically desirable to restructure rates for certain services, such revisions must reflect the underlying cost and demand differences between price cap and rate-of-return carriers. Such differences not only include higher per-line loop and switch investment but also the problem of "lumpy investment". For rural companies serving a small number of

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[1] See page 5 of Attachment A (Affidavit of Strategic Policy Research) to USTA's Comments.
[2] See JSI Comments at Page 9 for comparison of expected SLC and PICC rates between price cap and rate-of-return carriers in the year 2008.
[3] See page 4 of Attachment A to USTA Comments in this proceeding.

exchanges, it is not always possible to spread out network upgrades evenly over an extended period. More often, for example, when it is time to replace central office switching equipment, all offices are replaced, often with a host/remote configuration. This results in "spikes" in revenue requirements which are unavoidable by such companies.

The Commission should consider reasonable limitations in its implementation of Subscriber Line Charges (SLCs) and Primary Interexchange Carrier Charges (PICCs) caps for customers served by rate-of-return carriers. Due to the nature of the areas served by rate-of-return carriers, the costs of service are higher, which results in higher uncapped SLCs and PICCs for rate-of-return carriers. The Commission should strive to develop rules for rate-of-return carriers which have a similar impact on rural telephone company customers as do price cap rules on price cap customers. Therefore, the Commission should consider setting the cap for SLCs and PICCs for rate-of-return carriers at the nationwide average SLCs and PICCs of the price cap carriers.[4]

The Commission must recognize that there are only three feasible methods to recover the Common Line costs assigned to the interstate jurisdiction:

1) through flat-rated charges such as SLCs and PICCs;
2) through per minute rates such the Carrier Common Line (CCL); or
3) through Universal Service Funding.

Since Common Line Costs are generally higher for rate-of-return carriers, this means that if access reform rules similar to price cap rules were to be adopted for rate-of-return carriers, the SLCs and PICCs for rate-of-return companies would be significantly higher

[4] See Comments of USTA, JSI, HSA, NTCA, FWA, GVNW, ICORE, AllTel, TANE, Virgin Islands and Western Alliance.

than for price cap carriers. Therefore, as recommended by most parties in this proceeding, the Commission's best course of action would be to resolve Access Reform for rate-of-return carriers in concert with Universal Service revisions.

Should the Commission elect to implement Access Reform for rate-of-return carriers prior to resolution of Universal Service and Separations Reform, the FCC should consider adopting various parties' suggestions to reduce the regulatory burden on rate-of-return carriers by making many of the rate structure changes and new access rate elements optional for carriers under rate-of-return regulation.[5] As noted in our Comments in this proceeding, while the economic principles that apply to price cap companies may be equally applicable to rate-of-return carriers, the cost/benefit ratio of implementing the new rate structures may be too high.[6]

The nature of the Commission's proposals in the Notice would make it very difficult for any carrier to be a member of only one of the NECA pools. The Notice proposes to move certain costs from one pool to another, depending on rate levels and rate caps. While price cap carriers can easily move revenues from one basket to another, it is not so easy for rate-of-return carriers, particularly when an individual company may participate in the NECA Common Line Pool but not in the NECA Traffic Sensitive Pool.[7]

We agree with USTA's recommendation that the Commission reconsider its requirement to cap non-primary residential SLCs and PICCs at different levels than for

[5] See Comments of USTA, OPASTCO, GVNW and Virgin Islands.
[6] See HSA Comments at page 2.
[7] For a more complete description of the pooling problems associated with the Commission's proposals, see HSA Comments on pages 7 and 8.

primary residential lines.[8] For most rural telephone companies it will be extremely difficult to determine which lines are primary and which are secondary. This is no different than the problems faced by price cap carriers in trying to determine the nature of the lines. The FCC proceeding on determining primary lines has been open for over a year with no final resolution. Further, many rural companies are concerned that the requirement to determine the primary/non-primary status of a line may frustrate some customers who already think the phone company's record keeping requirements are too intrusive.

We agree with USTA that the potential disparity in SLCs and PICCs for customers of rate-of-return carriers would violate the requirements of the Communications Act that rates in rural areas be reasonably comparable to rates charged in urban areas for similar services.[9]

As noted in AllTel's Comments, pricing flexibility is becoming more important to rate-of-return carriers. We support Alltel's Comments that the Commission must create an opportunity for rate-of-return carriers which serve denser markets to respond to competition. Depending on their geographic circumstances, some rural companies can expect significant competition in their local serving areas in the near future. In order to allow such rural carriers to respond to competition, the Commission should establish access pricing flexibility rules which will allow rural carriers to avoid uneconomic bypass of their facilities.

[8] See USTA Comments at page 9.

[9] Section 254(b)(3) states: "Access in rural and high cost areas. Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas should have access to telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas."

In paragraph 4 of the Notice, the Commission requests comment on whether the implementation transition should be varied, as compared to the schedule for price cap carriers. The Commission should adopt USTA's proposal to cap SLCs and PICCs for rate-of-return carriers at the Nationwide average SLC and PICC rates for price cap carriers.[10] This is simple to calculate and results in fair treatment of all subscribers in the Nation.

In paragraph 5 of the Notice, the Commission suggests that pricing flexibility and alternative regulation be addressed in a future Notice. We support USTA's proposals related to pricing flexibility and alternative regulation and urge the Commission to pursue a proceeding on a parallel track with access reform.

In paragraph 17 of the Notice, the Commission notes that "average schedule recovery reduces the cost to small rate-of-return LECs of conducting separate cost studies by providing compensation based on cost estimates derived from comparable cost companies." As we indicated in our Comments, the Commission should realize that the use of average schedule settlements by rural carriers is very similar to price cap regulation.[11] Just like price cap carriers, average schedule carriers' revenue is based on demand for their services. Just like price cap carriers, annual operating efficiencies are reflected in lower rates (settlements). Just like price cap carriers, average schedule companies face "productivity offsets" in the form of steadily decreasing average schedule settlement formulas. The Commission should consider the use of average schedules to be a form of incentive regulation and make this option available to more rate-of-return

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[10] See USTA Comments at page 6.
[11] See HSA Comments at page 5.

carriers. If necessary, limitations on moving back and forth between average schedules and cost settlements could be implemented to prevent carriers from "gaming" the system.

In paragraph 35 of the Notice, the Commission tentatively concludes it should adopt the same access rate structure for rate-of-return LECs as it did for price cap LECs. If the Commission elects to proceed with Access Reform, HSA supports this general conclusion, subject to:

1) limiting the caps on SLCs and PICCs,
2) making many of the new rate elements optional,
3) providing default allocators for rate-of-return carriers until such carriers can develop the data for their own allocators, and
4) allowing pricing flexibility in response to competitive situations.

In paragraph 45 of the Notice, the Commission asks if there are concerns specific to NECA pooling companies which need to be addressed. There are several issues in the proposal which will need to be specifically addressed for pooling companies prior to implementation of access restructure. The basic issue which must be dealt with is the movement of costs between the Common Line Pool and the Traffic Sensitive Pool. This is made more difficult by the limits on SLCs, PICCs, and CCL, which may result in the rate level impacting the amount of costs to be moved from one pool to another.

In paragraph 70 of the Notice, the Commission requests comment on its proposal to move residual TIC to Common Line. Along with most other Parties, HSA opposes this proposal. The main drawback to this proposal is that the TIC represents real interexchange transport costs. As described earlier, the main source of the TIC is the under-allocation of costs to Special Access. If the Commission desires to eliminate the

TIC as a separate rate element, the best course of action would be to allocate the TIC among the following interstate access elements: Tandem Switched Transport; Direct Trunked Transport; and the interexchange portion of Special Access, specifically the Channel Mileage Termination and Channel Mileage Facilities rate elements. This allocation will recover the TIC, which represents real transport costs, from the interstate interexchange rate elements.

In paragraph 92 of the Notice, the Commission requests comment on any other cost allocation modifications required in this proceeding. As noted by Bear Lake, Bristol Bay, Central Utah and other Parties, the Commission proposal to assign additional costs to Billing and Collection, through GSF allocations, will only make it harder to provide Billing & Collection services to Interexchange Carriers. And with recent problems with cramming, many ILECs may not choose to continue to provide such services. If the Commission were to correct the problem with OB&C Part 69 allocations[12], it might be able to implement GSF allocation changes and not risk forcing some ILECs out of the Billing and Collection business.

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[12] See HSA Comments at page 10-11.

Respectfully Submitted,

HARRIS, SKRIVAN & ASSOCIATES, LLC

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By: Michael T. Skrivan

Michael T. Skrivan
Harris, Skrivan & Associates, LLC
8801 South Yale, Suite 450
Tulsa, OK 74137
(918) 496-1444
mikehsa@iamerica.net